HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO. 20640 OF 2005

Dated 29-09-2005

Between:

1 . The Chief Medical Officer, Health and Municipal Administration, Tank bund, Hyderabad and others.

…….Petitioners.

And:

Smt. T. Sumitra Devi, wife of late Sri TSY Chownikar, Sanitary Supervisor (Retired), resident of H.No.1-1-796/1, Ashoknagar, Hyderabad.

…….Respondent.

ORDER : (Per the Honourable Smt. Justice T. Meena Kumari)

This writ petition has been filed against the order passed in O.A. No. 5040 of 1999, on 08-04-2004 by the A.,P. Administrative Tribunal, Hyderabad.

The respondent herein is the applicant. The parties will be referred to as arrayed before the Tribunal for the sake of convenience.

Originally, the applicant filed an application in O.A. No. 5040 of 1999 under section 19 of the Administrative Tribunals Act, 1985 seeking to direct the respondents to award selection Grade and promotion to the Grade-III Municipal Commissioner from the date on which immediate juniors of her husband was extended the said benefits and consequently pay the arrears by duly fixing his pay in the said post and also interest and compensation for belated payments of life time arrears and the pension and family pension along with compensation for the harassment and hostile attitude of the respondents against her husband while in service and even after his death by holding the action of the respondents

as illegal. The Tribunal having observed that unfortunately, callous and negligent attitude was exhibited all through by the respondents in taking necessary action and in spite of the earlier orders of the Tribunal, they did not choose to comply with the same, disposed of the O.A. directing the respondents to fix the scale of the husband of the applicant in 1974 and 1978 Pay Scales. Aggrieved by the same, the present petition has been filed by the respondents.

Heard both sides. We have perused the material available on record.

The case of the applicant is that she is a widow. Her husband after working as Ameer (Inspector) in the Municipal Corporation of Hyderabad from 22-9-1952 retired from service on attaining the age of superannuation on 28-2-1983 even though he is entitled to continue in service till 30-6-1984. It is her further case that her husband was denied appointment to the Selection Grade and also for promotion to the post of Municipal Commissioner Grade-III and in view of the same, he filed R.P.No.991 of 1997 and obtained directions of the Tribunal, but the respondent did not follow the directions and he was allowed to draw minimum of the time scale of pay without awarding the legitimate service benefits due to him and also the pensionary benefits, but granted only anticipatory pension at Rs.661/- till his death even though there are no disciplinary proceedings pending against him. It is her further case that even after the death of her husband, the respondents did not pay the Family Pension. Aggrieved by the same, she filed O.A.No.5830 of 1993, in which even though directions were issued by the Tribunal to pay the Family pension, the same were not implemented by the respondents and therefore, she filed C.A.No.113 of 1994 and after issuance of the notices to the respondents in the C.A.., they paid the life time arrears of Rs.49, 831/- and also the arrears after fixing her husband's pay in 1974 and 1978 Revised Pay Scales, but awarding of Selection Grade and also his promotion to Grade-III Municipal Commissioner were not considered. Hence, she prays to award selection Grade and promotion to the Grade-III Municipal Commissioner.

It is contended by the learned counsel appearing on behalf of the respondents that the applicant has filed O.A.No.5040 of 1999 after a long lapse of 16 years and the Tribunal passed an order without considering anything on merit and therefore, the order impugned is liable to be set aside.

We have perused the material available on record. The claim of the applicant is for the promotion of her deceased husband basing on the seniority and service. However, the record goes to show that she has not furnished any such particulars as to the seniority of

her deceased husband except stating that the juniors of her husband were promoted. In the absence of such material, We feel that the tribunal is not justified in giving a direction to consider the case of the husband of the applicant. Apart from that, after the retirement of an employee i.e., after a period of 16 years, We cannot expect the employer to ascertain the particulars of a deceased retired employee due to lapse of time and due to destruction of records. Therefore, the claim of the applicant is nothing but a belated one which cannot be considered due to afflux of time. In the circumstances of the case, We feel that the tribunal is not justified in directing the respondents to fix the scale of the husband of the applicant in question after a lapse of 22 years after the retirement. Therefore, the order of the tribunal is liable to be set aside.

In the result, this writ petition is allowed setting aside the order of the tribunal. No costs.

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Justice T. MEENA KUMARI

Date: 29th September, 2005

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Justice P. LAKSHMANA REDDY

Dvs/Gurc

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WRIT PETITION NO. 20640 OF 2005

(Order delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 29-09-2005